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HUMAN RIGHTS COMMITTEE

Sixty-sixth session

SUMMARY RECORD OF THE 1763rd MEETING

Held at the Palais des Nations, Geneva,
on Friday, 16 July 1999, at 3 p.m.

Chairperson: Ms. MEDINA QUIROGA

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The meeting was called to order at 3.05 p.m.

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 40 COVENANT (agenda item 4) (continued)

Fourth periodic report of Mexico (continued) (CCPR/C/123/Add.1)

1. At the invitation of the Chairperson, the members of the delegat Mexico resumed their places at the Committee table.

2. Mr. AMOR said he had found the report particularly full and well-documented, although it would have benefited from more references actual situation in the country. That would have avoided the impressi there was a considerable discrepancy between theory and practice.

3. On the question of the position of the Covenant in Mexico's hier laws, he would like to know whether the statement in paragraph 2 that international treaties constituted the supreme law of the nation impli the Covenant had the same status as the Constitution. Paragraph 3 app suggest that human rights instruments had some kind of supra-constitut status. Paragraph 4 stated that the Covenant was consistent with the Constitution, which if true had considerable implications in terms of protection of human rights. With reference to paragraph 7, if human r commissions were "organs of constitutional rank", how did their compete compare to the competence of judges?

4. He understood that article 33 of the Constitution had been amend that Mexico's reservation to article 13 of the Covenant was being with He was nevertheless somewhat concerned to see how foreigners could be under Mexican law. Not only could individuals be expelled without rig recourse to the courts, but also organizations, including NGOs which w visiting the country to carry out human rights investigations. Had th Administration taken any steps to facilitate the task of NGOs, notably areas where there were conflicts involving indigenous people?

5. He noted from paragraph 253 of the report that a refusal to issu passport could be justified not only if the applicant was subject to a judicial constraint, but also if he was subject to "an administrative impediment". Did that mean that a Mexican citizen could be permanentl deprived of the right to a passport because of such an impediment?

6. He was aware that the Mexican authorities were doing a great dea improve the situation of women, but that tradition and religion still serious obstacles. In addition to the requirement that political part put forward a certain proportion of women candidates, had any affirmat action measures been taken to promote women's advancement, notably in field of education, including religious education?

7. Like his colleagues, he was concerned at the interpretation give flagrancy under Mexican law: in his view, flagrancy with deferred eff not tenable as a legal concept. He had been particularly struck by th apparent impunity of paramilitary groups in Mexico, and by the confusi between the powers of the police and the armed forces. He would have

glad of further information in response to paragraph 7 of the list of issues, since unfortunately there had not been time to consider in depth the addendum provided. Concerning the problem of torture, he was aware that the Mexican authorities were making considerable efforts to ensure better protection of human rights in that respect, but often political will was not enough, and he would be glad to know more about the actual situation.

8. Ms. EVATT thanked the Mexican delegation for its report and for the additional information provided. She felt bound to say that although the report was long, in her view it did not strike a proper balance between legal measures enacted and actual problems encountered in their implementation. Neither the report nor the addendum gave an adequate response to the concerns that had been raised by the Committee at the time the third periodic report had been examined.

9. On the question of remedy, she would like to know whether Covenant rights had ever been applied by the courts to override the law. It had been stated that consideration was being given to ratification of other international instruments. Did that mean that Mexico might also ratify the Optional Protocol to the Covenant?

10. Members of the Committee had expressed concern at the high level of violence in Mexican society and at the impunity of the security forces. Failure to act against such abuses contributed to a lack of confidence in law enforcement mechanisms. Women in Mexico appeared to be particularly vulnerable to such abuses. The delegation had claimed that the level of violence against women was no different from that in other countries, but according to a report of the Inter-American Commission on Human Rights, they were victims of serious maltreatment by State officials and members of the security forces, particularly in prison, where they were subjected to rape and torture. What specific measures were being taken to ensure that women were not abused in detention and that they were not intimidated against reporting it? Had any punitive measures been imposed in respect of such abuses?

11. The Committee was also concerned at reports of abductions and murders of women in a particular area of the State of Chihuahua. It seemed that the Government had responded by publishing notices in the media instructing women not to dress provocatively. A few arrests had been made, but the murders had continued and many remained unresolved. Article 9 of the Covenant required the State party to make effective the right to personal security, and she would like to know what steps had been taken to ensure that women could live safely in that area, to investigate abuses and to enforce the law. Was it the view of the Government that a particular mode of dress deprived people of their right to the protection of the law?

12. On the issue of discrimination in employment, reports had been received that the practice of testing women for pregnancy as a condition of employment was widespread. That practice clearly violated articles 17 and 26 of the Covenant, but it seemed that no inquiries had been carried out. Vaccination to prevent pregnancy and other intrusive examinations of women employees had also been reported. What was being done to prevent such practices and to prosecute those responsible?

13. Mr. LALLAH said there was no doubt that substantial progress had been made since the Committee had considered Mexico's previous report. However, there had unfortunately been regression in certain respects, notably the militarization of the security forces, a deterioration in the administration of justice and a decline in the physical protection of individuals.

14. Article 129 of the Constitution stated "In peacetime, no military authority may exercise any functions other than those directly connected with military discipline". That implied that the armed forces were clearly differentiated from the police. Given the legislation enacted in 1995, however, it was a perversion of democratic governance to give wide powers to the military, which was not answerable either to the people or to the Judiciary.

15. Concerning the administration of justice, he welcomed the work that was being done by the National Human Rights Commission. However, he wondered whether the Commission did not to some extent detract from the effectiveness of the Judiciary by offering what was in effect a second-class remedy, being empowered only to make recommendations and not to enforce the law. There had been much criticism of the lack of independence of prosecutors and of the misfeasance of the Judicial Police in Mexico. Could not thought be given to the creation of a fully independent mechanism to which individuals could resort in the face of such abuses?

16. Concerning regression in the administration of justice, he considered that the concept of "flagrante detention" was a legal fiction, highly destructive of the protection afforded by the Covenant whereby detained persons had the right of access to a lawyer and the right to impartial and competent judicial control. He understood that in the course of trials in Mexico judges often did not attend in person, but left it to court secretaries to record the proceedings for subsequent review: that did not seem to offer much guarantee of a fair hearing.

17. Lastly, he was concerned at reports that three journalists had been murdered over the past year. Journalists seemed to have become a favourite target, and he would appreciate more information.

18. The CHAIRPERSON invited the delegation of Mexico to respond to the questions raised.

19. Mr. SANCHEZ GUTIERREZ (Mexico) said that until a few years before the electoral system had been the subject of justified criticism, not only within Mexico but in international forums. However, significant changes had recently been introduced. In the election of 1994 a single party had received 54 per cent of the public resources allocated to campaign activities, whereas in 1999 the distribution of resources between the three major parties had been 33 per cent, 26 per cent and 25 per cent. That showed that political parties had had access to public funding on a much more equitable basis since the reforms of 1996.

20. In reply to the question on access by political parties to the media, he said that since 1996 parties had been able to buy media time on a long- or short-term basis, as well as "spots" on radio and television. The Federal

Electoral Institute was compelled by law to monitor the programmes of political parties, and to ensure that their campaigns gave the public the necessary information. In 1996, party political broadcasts had been made on 17 radio stations out of 1,350 existing in the country, and on 3 television channels: in 1999 they had been made on 240 radio stations and 60 television channels. That ensured greater competitiveness between parties.

21. Until a few years previously, 32 of the states of the Republic had been governed by a single party: today, 11 were governed by opposition parties, which meant that one third of the country, containing more than 40 per cent of the population, was no longer governed by one party. Another effect of the reform had been that since 1997 no party had held an absolute majority of seats in Congress.

22. There was now greater confidence in the election process, and in recent years election results had not been challenged by any of the political parties, either in federal or local elections. The Federal Electoral Institute had powers to monitor party political expenditure in order to ensure that public funding made available to advance democracy in Mexico was not used for other purposes. Since 1994, ceilings had been put on campaign expenditure, in order to ensure fairer competition between the parties.

23. As to remaining obstacles to the electoral process, the Chamber of Deputies and the Senate were now considering ways of monitoring pre-campaign expenditure, allowing more time for campaigns and improving facilities for voters. The selection process was not controlled by the Institute, but it should be noted that the PRI party had reformed its statutes to ensure that candidates were selected following public consultations, and other parties would soon be introducing similar reforms. Concerning the issue of public involvement in politics, six more political parties had recently been registered, which meant that the public would now have more choice. However, the new parties would only survive if they received a minimum of 2 per cent of the vote at the forthcoming election.

24. Ms. PEREZ DUARTE (Mexico) said that jurisdiction in cases of torture was twofold. At the federal level, torture was punishable under the 1997 Federal Act to Prevent and Punish Torture. Torture was also an offence under certain state criminal codes and other states had enacted specific legislation to prevent torture. The legislation invoked in a particular case depended on the authority that was deemed responsible.

25. The Constitution stipulated that an arrested person must immediately be brought before the competent authority, which was the Public Prosecutor's Office when a person was held in police custody. That Office, having conducted its preliminary investigation, referred the detainee to the judge, who, within 72 hours, would decide whether to issue a detention order or an order of release.

26. Detainees enjoyed all the guarantees provided for in article 9 of the Covenant, which were reflected in articles 14, 16 and 20 of the Mexican Constitution. Contacts with a lawyer or other person designated by the detainee for his or her defence and with family members took place immediately; that was a right protected by both federal and state human rights

commissions. Legal assistance was assigned by the State where necessary. Officials in remote areas who still prevented detainees from contacting family members or lawyers were in breach of the law.

27. A medical examination was conducted as soon as the detainee was referred to the Public Prosecutor's Office and also before he or she was passed on to the competent judicial authority. Of course, there was no guarantee that the entire Mexican police force complied with the regulations designed to prevent torture and ill-treatment. But abuse of authority and other similar offences by public officials were punishable by law.

28. She pointed out that the conduct of legal proceedings in Mexico was somewhat different from that prevailing in other countries. There was no system of public hearings before a judge, a jury, and counsel for the defence and the prosecution. The proceedings were based largely on written material, which was submitted to the judge for analysis. The public part of the legal proceedings was considered to extend from the signing of the committal order to the delivery of judgement, and the defendant was present at all hearings.

29. A confession was not sufficient in itself to convict an accused person, even in civil cases. It could only be taken into account if it was consistent with all the other evidence in a person's file, which was accorded greater probative value. To be valid, a confession must be made before a public prosecutor or a judge. Moreover, a confession made before a public prosecutor was inadmissible unless confirmed by a judge. The person making the confession must be accompanied by a lawyer or other trusted person, who must also sign the confession. Following the reforms to reduce the weight given to confessions, there had been a decline in the number of complaints of torture. She agreed that the period in which acts of torture and other forms of ill-treatment were most likely to occur was that spent in police custody: hence the legislative provision requiring the immediate handover of detainees to the competent judicial authority. The Public Prosecutor's Office had 48 hours to conduct its investigations. Moreover, the detainee's initial statement was not accorded as much importance as in the past.

30. In reply to the question whether police investigations continued after legal proceedings before a judge had begun, she said that investigations were the responsibility of the Public Prosecutor's Office and that judges were not involved. The Public Prosecutor's Office and the Judiciary were two entirely separate bodies.

31. Judgements were handed down in public hearings, and all records of legal proceedings and submissions relating thereto were available for consultation. Proceedings in family courts constituted the only exception because of the need in certain cases to protect privacy. A bulletin containing details of judgements was published daily by each court.

32. Under the Mexican legal system, judges controlled and coordinated the proceedings through a team of professional assistants but were not always present at every stage, for example if two hearings were held simultaneously. The shortage of judges was admittedly a problem that needed to be addressed.

33. The Covenant had never been cited in a judgement because virtually all its provisions were reflected in the Constitution and the Criminal Code. However, reference had been made to other international treaty obligations entered into by Mexico which were not covered by existing legislation. For example, Mexican civil or criminal legislation did not recognize a child's right to be heard in court. The Convention on the Rights of the Child had therefore been invoked to enforce that right.

34. She admitted that there was a major discrepancy between law and practice in the area of women's rights. Education was the key to changing attitudes, and affirmative action was being taken to redress the imbalance created by customs and mores. For example, no more than 70 per cent of candidates for political office should be of the same sex. Mexico was a secular multicultural country and religious education was not provided by the State. Article 34 of the Constitution laid down the principles that governed public schooling and steps had been taken to ensure that the education provided in private schools was compatible with the principle of equality of the sexes. The Government and society as a whole were aware that girls and women were particularly vulnerable to all kinds of human rights violations and every effort was being made to prevent that legacy from being handed on to future generations.

35. Specialized agencies had been set up to hear individual complaints, for example by women who had allegedly been raped by police officers or members of the armed forces in the States of Chiapas, Guerrero and Oaxaca. Rape victims were often unwilling to bring legal proceedings for a number of reasons, including fear of reprisals, and the authorities were considering ways of tackling that problem. Not all women detainees were particularly vulnerable. In the vast majority of cases, they were in the company of others throughout their period of detention. Where rape was committed by a public official, the offence was deemed to be aggravated by abuse of authority. The National Programme for Women: Alliance for Equality (PRONAM) had been actively addressing the issue for some time.

36. The Special Rapporteur of the Commission on Human Rights on extrajudicial, summary or arbitrary executions had requested an investigation into the events at Ciudad Juárez. It had emerged, however, that the culprits had not been public officials but private individuals, most of whom were in prison. A special investigation had clarified the nature of the crimes and the motives of the perpetrators. The Mexican authorities did not take the position that provocative clothing was the cause of rape and sexual abuse. Such crimes were often the result of domestic violence. Moreover, the Ciudad Juárez cases had been influenced by regional customs and the authorities' task had been further complicated by the ease with which wrongdoers could escape across the border to the United States. The Special Rapporteur would shortly be visiting the area to conduct investigations and would report her findings to the Commission on Human Rights.

37. Discrimination in employment was not State policy. The laws guaranteed equality of recruitment for men and women and equal pay for equal work. But some private companies required female job applicants to furnish proof of non-pregnancy. A campaign to stamp out such practices had been launched several years previously. Pregnancy tests had previously been required also

by some public agencies but, thanks to the efforts of the State and federal human rights commissions, that was no longer the case. The National Commission for Women and the Labour Secretariat were also addressing the problem of companies that put pressure on women not to become pregnant during their employment contracts.

38. Mr. AMPUDIA MELLO (Mexico) said that the issue of the participation of military personnel in public security tasks had attracted considerable attention in Mexico in recent years. Diverse positions had been adopted by social institutions, the Government and political parties. Some viewed military participation as a necessary and legitimate means of strengthening programmes and strategies for the protection of individual citizens. Others argued against it in terms similar to those used by the Committee. As to whether there were sufficient legal grounds for the existing coordination between the armed forces and the civilian authorities responsible for law enforcement and public security, he admitted that article 129 of the Constitution expressly stipulated that in peacetime no military authority was empowered to exercise any functions other than those directly connected with military discipline. On the other hand, article 21 of the Constitution provided for the participation of the Secretariat for National Defence, the body responsible for supervising the activities of the armed forces, in public security tasks. An argument that had persuaded many parliamentarians to authorize army participation in such tasks was that, whereas article 129 referred explicitly to "military authority", the army invariably operated under civilian command when it engaged in public security activities. The Congress of the Union had adopted a constitutional reform permitting the armed forces to participate in such activities under civilian command and supervision. Irregularities were punishable by law, regardless of whether the perpetrators were military or civilian personnel. If an offence was provided for in the Military Code, the accused would be tried by a military court; if it came under the Civil Code, even a member of the armed forces would be tried in a civil court. For example, a number of soldiers had recently been tried in civil courts for involvement in drug trafficking. They had concurrently been tried in a military court for offences against military discipline.

39. The National Human Rights Commission would shortly create a new oversight body responsible for addressing human rights issues involving military personnel. He added that the Mexican armed forces had demonstrated their respect for the country's constitutional framework and its civilian authorities for 70 years.

40. Mr. GONZALEZ FELIX (Mexico) said that article 133 of the Constitution stipulated that international treaties formed part of the supreme law of the Union. The Covenant thus enjoyed a status comparable to that of the Constitution. The reservations entered by Mexico derived either from the Constitution or from other legislative enactments. The authorities were endeavouring to withdraw existing reservations, for example that concerning compensation for arbitrary detention. In the case of article 33 of the Constitution, the National Human Rights Commission had launched a constitutional reform initiative which the authorities were preparing to consider. The Inter-Secretarial Commission was well advanced in its discussion of the possibility of acceding to the Optional Protocol to the Covenant.

41. On 7 June, the Mexican Congress had approved a proposal to grant full autonomy to the National Human Rights Commission, which would no longer be subject to the authority of the Executive. Its director would in future be appointed by the Legislature. The Committee had noted that some of its recommendations had been fully implemented and some only partially. In some cases, legal proceedings instituted against perpetrators of human rights violations in response to the Commission's recommendations had not yet been completed. The average rate of compliance, however, was over 96.5 per cent.

42. Mr. ARIAS MARIN (Mexico), replying to a question by Mr. Yalden concerning the implementation of the San Andrés Agreement, said that all documents relating to the proposed constitutional reform, which included many new elements pertaining to the rights and culture of indigenous peoples, had been issued in the form of a diskette, a copy of which would be sent to the Chairperson. The proposed reform concerned not only the population of Chiapas but all the indigenous peoples of Mexico. Although the so-called Cocopa project was not formally before Congress, having failed to obtain the necessary consensus, the project put forward by the Executive was very similar to it.

43. Replying to Ms. Chanet's question relating to article 14, he said that a state of emergency had not been proclaimed in Chiapas because conditions in that state did not warrant the suspension of individual legal guarantees. Although some intercommunal violence was unfortunately still taking place, it was not widespread and the social fabric was still intact in many municipalities. Any responsible State in such a situation would strengthen its armed presence by bringing in deterrent military forces. Because of Mexico's long frontier with Guatemala, checkpoints had had to be set up to control not only movement of weapons, but also traffic in persons and drugs. Nevertheless, freedom of movement within Chiapas was fully guaranteed even in areas of intercommunal conflict. Zapatista sympathizers were able to move freely throughout the country, to organize political and cultural events - including football matches, and to hold press conferences. Paradoxically, the Zapatistas were perhaps the most highly publicized guerrilla group in history.

44. Mr. KLEIN said that he wished to ask a follow-up question on the issue of access to a lawyer. Was it true that persons detained by the Public Prosecutor's Office or handed over by that Office to the Judiciary were denied access to an attorney during their period of detention and questioning until they had made a formal statement?

45. Ms. PEREZ DUARTE (Mexico) said that under article 20 of the Constitution an accused person was entitled to the assistance of counsel throughout the legal proceedings. While the practice described by Mr. Klein might perhaps be found in some remote villages, it was definitely contrary to the Constitution.

46. The CHAIRPERSON invited the Mexican delegation to respond to questions in the second part of the list of issues.

47. Mr. SANCHEZ GUTIERREZ (Mexico), replying to question 15 on freedom of movement and the rights of foreigners, said that the National Human Rights Commission was working towards the withdrawal of the largest possible number of Mexico's reservations to various international human rights instruments.

So far as restrictions on foreigners were concerned, any member of a foreign NGO who complied with the country's immigration rules was free to enter Mexico and to reside there; as in every other country in the world, foreigners, including ordinary tourists, who failed to comply with those rules were ordered to leave.

48. Mr. AMPUDIA MELLO (Mexico), replying to question 16 relating to freedom of religion, said that anyone claiming to be a victim of religious intolerance could have recourse to the administrative authorities responsible for dealing with such matters. The prevailing climate in Mexico was one of religious tolerance. With regard to exemption from military service, he explained that, while there was no provision for exemption on religious or any other grounds, military service in Mexico involved a wide range of social service activities, such as participation in literacy campaigns, and did not necessarily involve bearing arms or receiving military training. For that reason, there were no recorded cases of young people requesting exemption from military service for reasons of a religious nature.

49. Mr. SANCHEZ GUTIERREZ (Mexico), replying to question 17 relating to freedom of expression, said that one of the functions of the National Human Rights Commission was to protect journalists from any threat, however insignificant, and to investigate any complaints received in that connection. There were no circumstances in which journalists could be prevented from freely engaging in their profession unless, of course, they had committed a criminal offence.

50. Ms. PEREZ DUARTE (Mexico), replying to question 18 relating to protection of the family and children, said that more than 100 programmes of assistance to street children had been adopted in Mexico since 1987. The programmes included preventive work with families, providing food and health and educational services, issuing birth certificates, and other forms of care. Early next year Mexico would be reporting on all such matters to the Committee on the Rights of the Child.

51. Ms. SANCHEZ VALDERRAMA (Mexico), replying to question 19 on the economic and social marginalization of members of indigenous communities, described the activities of the National Institute for Indigenous Affairs, which were designed to promote the recognition of indigenous rights and cultural diversity and to improve the economic and cultural situation of Mexico's numerous indigenous peoples. The Institute's activities included broadcasting in 31 indigenous languages to about 6 million indigenous listeners. The Institute also assisted indigenous peoples in legal matters. During the current year alone, requests for funding for research purposes had been received from 265 indigenous organizations.

52. Mr. GONZALEZ FELIX (Mexico), replying to question 20 on safeguards to ensure the indigenous communities' full rights of ownership over communal land, said that those rights were fully protected by the Constitution. As to question 21 on the dissemination of information relating to the Covenant, he said that information bulletins on all reports by Mexico to United Nations human rights bodies were issued and made widely available, in particular to NGOs.

53. The CHAIRPERSON invited Committee members to ask additional questions relating to the second part of the list of issues.

54. Mr. BHAGWATI expressed appreciation of Mexico's achievements in the area of human rights over the past few years and asked for clarification in connection with article 19 of the Covenant. According to information received, article 351 of the Criminal Code of 1931 provided that truth was a defence against the charge of defamation only when the victim was a public officer and the defendant had acted in pursuit of a public or legitimate private interest. That provision and other laws concerning defamation of the Government could surely be used to stifle political dissent and curtail freedom of expression, and he hoped that the Mexican Government would take action to repeal them.

55. In connection with article 22, he understood that although Mexico had ratified ILO Convention No. 87, a trade union monopoly was imposed on State employees by a Federal Act and the National Federation of Banking Unions was the only trade union body which bank employees were permitted to join. In what way were such regulations compatible with article 22 of the Covenant?

56. Associating himself with Mr. Amor's remarks concerning the severe limits imposed on contacts between Mexican and foreign NGOs, he remarked that the law authorizing the Government to expel any member of a foreign NGO whose conduct was "inconvenient" seemed to be inconsistent with the General Assembly Declaration on Human Rights Defenders.

57. Mr. SCHEININ, noting the linkage between articles 1 and 27 of the Covenant and referring specifically to question 20, asked what was the situation with regard to subsurface (oil and mineral) rights. While appreciating that all Mexico's natural resources were regarded as national property, he requested further information on possible joint ownership arrangements with regard to subsurface rights. Instead of financial compensation alone, an adequate mechanism for the protection of those rights would, in his view, place emphasis on securing the sustainability of indigenous economies and ways of life. As to agrarian reform, he welcomed the progress being made but wondered whether it might not take decades, or even centuries, to ensure the full implementation of agrarian rights for more than a small portion of Mexico's indigenous peoples.

58. Mr. ANDO expressed particular thanks to the Mexican Government for its punctual submission of the report. In connection with question 17, he asked whether there had been any convictions in cases involving assassinations of journalists. Also in connection with article 19 of the Covenant, he noted that, according to paragraph 406 of the report (CCPR/C/123/Add.1), the Ministry of Communications and Transport was free to decide "at its own discretion" to grant or refuse authorizations to the electronic media. Were there any cases where authorization had not been granted? Were any judicial remedies provided? And had recourse to such remedies ever been successful?

59. Turning to article 23, he noted that paragraphs 518 (d) and 522 of the report referred to chronic, incurable, contagious or hereditary disease as an impediment to marriage. Did the impediment apply to couples who had no intention of having children and were taking preventive measures? With regard

to indigenous rights, he associated himself with the question asked by Mr. Scheinin and inquired further whether indigenous groups in Mexico had any political parties of their own. Lastly, in connection with access to public service, he noted that only persons who were Mexican by birth could be crew members on any ship flying the Mexican flag, and wondered why the provision could not be extended to Mexican citizens by naturalization.

60. Mr. KRETZMER said that the Committee had received reports of harassment of members of foreign NGOs, particularly by the State immigration authorities. He was not entirely satisfied with the delegation's reply to the questions in paragraph 15 of the list of issues. As he understood it, article 9 of the Mexican Constitution provided for a limitation on the freedom of association in the sense that only Mexican citizens could associate for political purposes. Furthermore, under article 3 of the Constitution foreigners could be removed from the country on the grounds of interference in internal political affairs. Did the Mexican Government interpret human rights activities as interference in internal political affairs? And was that the basis for excluding human rights organizations from the country? Also, were members of NGOs, especially those dealing with human rights, subject to specific visa requirements for entry into the country?

61. If he had understood correctly the delegation's response to paragraph 16 of the list of issues, it appeared that Mexican conscripts might be drafted to perform social work. That was not in conformity with article 8, paragraph 3, of the Covenant, whereby only conscientious objectors could engage in social work. Lastly, he inquired what restrictions were placed on State employees with regard to trade union membership.

62. Ms. EVATT said that according to the report (para. 516), in conformity with article 148 of the Civil Code for the Federal District, males could marry at the age of 16 and females at the age of 14. She wondered whether there was any likelihood of such legislation being amended since, aside from being discriminatory against women, it also allowed for marriage without parental consent at a very young age.

63. The CHAIRPERSON invited the Mexican delegation to reply to questions put by members.

64. Mr. GONZALEZ FELIX (Mexico) said, in reply to Mr. Bhagwati, that as part of the new national programme on human rights, recommendations by international bodies concerning human rights violations were being followed up by the National Human Rights Commission. Furthermore, the programme provided for the dissemination of information on Mexico's obligations under various international human rights instruments, the withdrawal of certain reservations thereto and the possibility of further commitments to other treaties.

65. On the question whether the current definition of calumny could limit freedom of expression, he explained that there was no specific regulation for the latter, it being subject to the provisions of the Civil Code relating to moral damage. The delegation would provide the Committee with a more detailed reply in writing on the subject in due course.

66. In reply to questions about trade union rights, he drew attention to the fact that just recently the Supreme Court of Justice had reflected on the interpretation of freedom of association and had decided that people should be allowed to join the trade union of their choice. So it was now possible for a given institution to have more than one union.

67. Strict immigration requirements applied not only to NGOs, but also to other foreign visitors, businessmen or persons marrying Mexican citizens. No NGO had been denied entry into Mexico; indeed, current requirements were designed to facilitate entry and ensure the safety of NGO observers during their stay in Mexico.

68. Indigenous people's rights to ownership of communal land were guaranteed by the Constitution. Furthermore, in accordance with the Constitution, natural resources, including petroleum, belonged to the Mexican nation and no individual or private company could claim ownership thereof. So from that point of view the rights of indigenous peoples to communal land were also protected.

69. The willingness of his Government to ensure the safety of journalists and to punish those who threatened or used violence against them was borne out by the recent case in the State of Baja California concerning the attempted murder of a famous journalist called Blanco Ornellas. One of his assailants - a drug trafficker - had been arrested and remanded in custody. In a further case involving the murder of another well-known journalist, those responsible for plotting and perpetrating the crime were now serving prison sentences.

70. In response to Mr. Ando's questions regarding restrictions on the right to marry, he stressed that such restrictions were not designed to prevent people from marrying, but rather to protect their children against disease.

71. Mr. SANCHEZ GUTIERREZ (Mexico), providing clarification on electoral rights, said that, strictly speaking, non-party members could not stand for election, since the right to put forward candidates belonged exclusively to the political parties. Nonetheless, the electoral reform of 1996 allowed for a type of participation called "agrupacion política nacional", whose purpose was to encourage greater popular participation. In order to obtain that status the political groups in question must submit their statutes and information on doctrinal principles to the competent authorities, as well as proof of national membership of at least 7,000 people. To date 32 political groups had met those requirements and thus qualified for public funds for education, training and research. They could put forward candidates for national elections by agreement with a political party. In addition, non-party members could stand for election if they were selected by one of the political parties as "external candidates".

72. As to the political representation of the indigenous peoples, there were no indigenous political parties as such. However, he was aware of five agrupaciones políticas nacionales mainly composed of indigenous people, including El Frente nacional de pueblos indigenas y communidades marginadas.

73. Ms. SANCHEZ VALDERRAMA (Mexico), endeavouring to shed further light on the indigenous people's rights to land and property, including related claims,

drew attention to article 27 (7) of the Constitution, as well as article 98 (2) and article 99 (3) of the current Agrarian Act. Further guarantees were also provided by article 4 of the Constitution.

74. Mr. ARIAS MARIN (Mexico), responding to queries regarding the self-determination of indigenous populations, pointed out that Mexico had been one of the first countries to ratify ILO Convention No. 169. It was worth noting that Mexico adhered to the definition of the term "people" adopted in that Convention, which did not correspond to the one generally accepted under international law. Moreover, the provisions of the ILO Convention were not binding on signatory States where they conflicted with the provisions of their Constitution. In Mexico, it had been found that the most realistic way of protecting the rights of indigenous groups, preserving their language and culture, and promoting their sustainable development was for them to live in communities. More importantly, a community lifestyle made it possible to ensure that such people had adequate legal and political representation. Before such communities could be granted self-determination it was necessary to establish what land or property belonged to them. Thereafter they would be referred to as indigenous people. In a number of Mexican states, some progress had been along those lines. However, problems, particularly of a legal and political nature, arose where communities straddled different states and those measures could not be applied.

75. Yet further difficulties were encountered with the definition of territory: since under Mexican legislation the areas populated by indigenous people traditionally belonged to the State, in legal terms it was not correct to refer to land belonging to indigenous people. ILO Convention No. 169 contained a very broad definition of territory in relation to indigenous people, which encompassed environmental aspects and religious and cultural heritage. For instance, in the case of religious monuments or archaeological ruins which were owned by the State but situated on a territory traditionally inhabited by indigenous communities, there was a need for special cooperation between the federal authorities and the communities concerned.

76. Turning to the subject of agrarian reform, he stressed that the major difficulty facing the agrarian authorities at present was that they were unable to meet the demand for land from new applicants. For a number of reasons the problem was particularly acute in the State of Chiapas. He would emphasize that the distribution of land in that region had taken place considerably later than in the rest of the country. It was an undeniable fact that there were no longer any large estates available. Furthermore, the growth rate of the population was higher than the Mexican average. In an effort to avert a crisis, the Government had bought a sizeable amount of territory and had endeavoured to distribute it among new applicants. That process had virtually been completed, thus far without any major conflict with the farming associations. However, the problem had not yet been finally resolved since the further demands of new generations would need to be met. Already most farms in the area were very small in size and, since that trend was likely to continue, a review of the whole process of agricultural production was required.

77. Mr. GONZALEZ FELIX (Mexico) stressed that activities relating to observance of human rights were not viewed as interference in the internal

political affairs of Mexico, pointing out that 4,127 NGO observers had visited the country since 1998. Notwithstanding the fact that Mexico had provided a very informative report and an addendum in an effort to reflect the many new developments since the consideration of the previous periodic report, many Committee members had focused on the need for more detailed information and statistics. Those comments would be taken into account when preparing Mexico's next periodic report.

78. The CHAIRPERSON conveyed the Committee's thanks to the Mexican Government for the timely submission of a very informative report and supplementary information, and also for the competent delegation it had sent to participate in the dialogue with the Committee. The Committee welcomed the many improvements in the area of human rights since the submission of the previous periodic report, including the granting of autonomy to the National Human Rights Commission and the prospect of the withdrawal of reservations relating to relevant international human rights instruments. Although the Committee's concluding observations on Mexico's fourth periodic report would be submitted to the Mexican Government in writing in due course, she wished to summarize the main concerns that had emerged during the dialogue.

79. Firstly, legislation prohibiting the use of torture should be applicable throughout the Federation; an independent body to investigate allegations of torture was required. Concern had been expressed about exactly who was empowered to order arrest and pre-trial detention and in what circumstances. Some legislation, in particular that relating to flagrante delicto, provided considerable scope for the use of torture.

80. The second main area of concern was that of militarization. She was not satisfied with the delegation's assurances that civilian and humanitarian operations carried out by the military came under civilian command; the military were not trained to deal with such situations, they were trained for war. A further problem concerned the courts competent to try offences committed by members of the military; Mexico's regime did not seem to be in keeping with the provisions of the Covenant.

81. The delegation had claimed that the situation in the State of Chiapas did not warrant the declaration of a state of emergency. Yet several elements, including a strong military presence, the use of checkpoints and other military installations, suggested that there was in fact an undeclared state of emergency there.

82. The Committee still had misgivings about the situation of indigenous people in Mexico. It was regrettable that article 27 of the Constitution effectively prohibited the sale of land they rightfully owned; the sale of such land could make an enormous difference to their lifestyle, as had been the case in other Latin American countries. Other serious concerns related to breaches in the administration of justice owing to problems relating to written procedure, the discretionary application of immigration requirements affecting the activities of foreign NGO observers, the definition of defamation, and restrictions on freedom of expression in the media and other spheres.

83. Mr. GONZALEZ FELIX (Mexico) expressed the hope that the constructive dialogue established with the Committee would be pursued. The recommendat contained in the Committee's concluding observations would be duly followe up. At the present juncture, however, he felt it necessary to clarify one important point. Since civil operations carried out by the military came under civil command, cases of torture would come under the competence of t civil and not military courts.

The meeting rose at 6.05 p.m.